

the trust; and that the said land was not in a state of improvement, such as to produce any advantage to these parties; but might be sold to the advantage of all concerned. Whereupon it was prayed that a decree might be passed for the sale of their interest, and that they might have such other relief as the nature of the case should require.

27th October, 1817.—KILTY, Chancellor.—The defendants *Lucretia* and *Sarah Tilly* being before me, and appearing to be infants under the age of twenty-one years, *Dennis Claude* is hereby appointed guardian to them for the purpose of answering on their behalf to the bill.

On the same day, the infant defendants put in their answer by their guardian *ad litem*, in which they say that they admit the facts stated in the said bill, and were willing that a decree should be passed according to the prayer of the bill.

27th October, 1817.—KILTY, Chancellor.—Decreed, that the interest of the parties in the land in the proceedings mentioned be sold, that *Nicholas Brewer* be appointed trustee for making the sale, &c. He shall then proceed to sell the said real estate, either entire, or in such parcels as he shall deem advantageous, either at public or private sale, after giving at least three weeks notice in some convenient newspaper, in the event of a public sale, of the time, place, manner, and terms of sale, which shall be that the purchaser shall give bond with approved surety, for paying the purchase money, with interest, within twelve months from the time of sale, &c. (a)

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(a) This bill does not ask for a partition, and therefore could not have been sanctioned by the act of 1785, ch. 72, s. 12, or the act of 1794, ch. 60, or by any other course in relation to partition; if, indeed, the interest of these infants could have been made the subject of a suit for partition. It must, therefore, be considered, as it appears to have been, the first decree under the act of assembly, which declares, that where any infants are possessed of any real estate whatsoever, it shall be lawful for the Chancellor, upon the petition of the guardian or *prochein ami* of such infants, after summoning such infants, and their appearance by guardian, to be appointed by the Chancellor, upon the hearing and examination of all circumstances, and upon its appearing to the Chancellor that it will be for the interest and advantage of such infants to sell such real estate, or any part thereof, to order such lands, or any part thereof, to be sold upon such terms as the Chancellor may direct. That the proceeds of the sales shall be paid over to the guardians of such infants, to be invested in such public stock, or other permanent funds, as will, at least, net six *per centum per annum* at the time of the purchase, and as the Orphans Court of the county, by whom such guardians shall have been appointed, shall direct. That the surplus interest, after what may be necessary for the maintenance and education of the infants respectively, as it accrues,